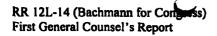
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1 2 3 4	2012 AUG -3 AH 10: 44 999 Wash	ECTION COMMISSI E Street, NW ington, DC 20463	RECEIVED FEDERAL ELECTION COMMISSION ON SECRETARIAT 2012 AUG - 3 AM 10: 54
5	CELA FIRST GENER	AL COUNSEL'S REP	ORT SENSITIVE
7. 8 9		RAD REFERRAL 12 DATE RECEIVED: N DATE ACTIVATED:	L-14 March 23, 2012
10 11 12 13	·	EARLIEST SOL: Dec LATEST SOL: April	
14 15	SOURCE:	Internally Generated	·
16 17 18	RESPONDENT:	Bachmann for Congre official capacity as Tr	ess and Daniel Puhl in his easurer
19 20 21	RELEVANT STATUTES:	2 U.S.C. § 434(b) 11 C.F.R. § 104.3	
22 23	INTERNAL REPORTS CHECKED:	Disclosure Reports	
24	FEDERAL AGENCIES CHECKED:	None	
25 26	I. <u>INTRODUCTION</u>		
27	The Reports Analysis Division ("R	AD") referred Bachman	n for Congress and Daniel
28	Puhl in his official capacity as treasurer (the "Committee") to the Office of the General Counsel		
29	("OGC") for failing to disclose, in the aggr	egate, \$220,251.46 in re	ceipts and \$217,045.77 in
30	disbursements. In total from 2008 to 2011	the Committee filed 12	incomplete disclosure reports
31	with the Commission. In response, the Co	nmittee acknowledges t	he reporting errors but

Based on the available information, we recommend that the Commission open a MUR in connection with RR 12L-14 and find reason to believe that the Committee violated 2 U.S.C.

requests that the Commission decline to open an enforcement matter and refer the matter to

Alternative Dispute Resolution ("ADR").



- § 434(b) by failing to disclose accurately receipts and disbursements in reports to the
- 2 Commission. Additionally, we recommend that the Commission enter into pre-probable cause
- 3 conciliation with the Committee

4 II. <u>FACTUAL AND LEGAL ANALYSIS</u>

5 A. Factual Background

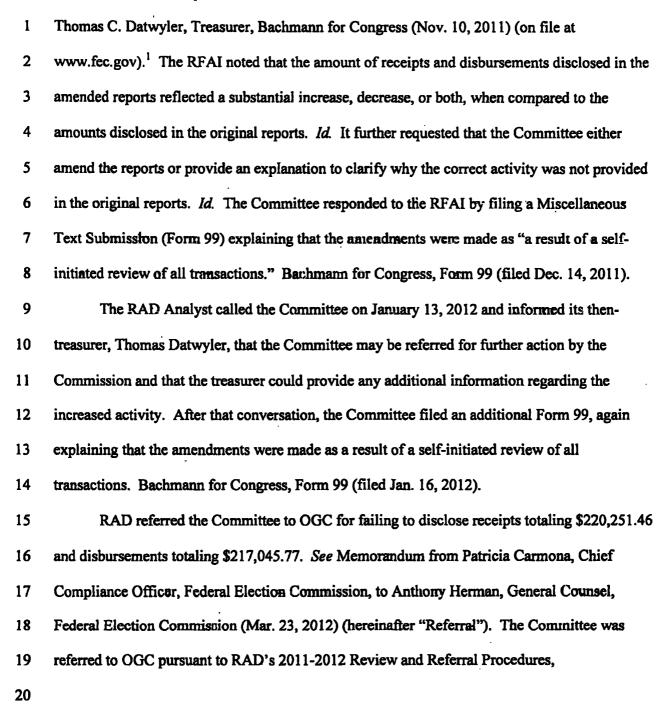
- 6 As detailed in the chart below, the Committee amended 12 reports originally filed
- 7 with the Commission from 2008 through 2011 to disclose additional receipts totaling
- \$ \$220,251.46 and additional diabursements totaling \$217,045.77.

PACHMANN: FOR CONGRESS AMENDED REPORTS

Report	Date of Amendment	Increased Receipts	Increased Disbursements	Total
2008 30 Day Post-General	5/17/2011	n/a	\$600.00	\$600.00
2008 Year End	5/17/2011	n/a	\$272.10	\$272.10
2009 April Quarterly	5/17/2011	n/a	-\$2,424.99	\$2,424.99
2009 July Quarterly	9/17/2010 & 5/18/2011	\$81,193.62	\$124.35	\$81,317.97
2009 October Quarterly	5/18/2011	\$7,000.00	n/a	\$7,000.00
2010 April Quarterly	9/17/2010 & 5/18/2011	\$ 119,334.23	\$6,274.09	\$125,608.32
2010 July Quarterly	9/17/2010 & 5/18/2011	\$6,364.52	\$4,800.00	\$11,164.52
2010 12 Day Pre-Primary	9/20/2010 & 5/18/2011	\$3,285.00	n/a	\$3,285.00
2010 October Quarterly	5/18/2011	\$2,370.36	\$57,338.16	\$58,708.52
2010 12 Day Pre-General	5/18/2011	n/a	\$137,962.50	\$137,962.50
2010 30 Day Post-General	5/18/2011	n/a	\$7,249.58	\$7,249.58
2011 April Quarterly	5/20/2011	\$703.73	n/a	\$703.73
	TOTAL	\$220,251.46	\$217,045.77	\$437,297.23

- In response to these amendments, RAD sent the Committee a Request for Additional
- 11 Information ("RFAI") that inquired about the increased activity disclosed on these reports.
- 12 Letter from Ben Holly, Senior Campaign Finance Analyst, Federal Election Commission, to





RAD previously sent RFAIs regarding four of these reports. This report, however, only recounts the events related to the November 10, RFAI because it encompasses all of the Committee's increased or decreased activity disclosed on each of its 12 final amended reports.

RR 12L-14 (Bachmann for Consess) First General Counsel's Report

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3 Upon receipt of the Referral, OGC notified the Committee about this matter on 4 February 3, 2012. See Agency Procedure for Notice to Respondents in Non-Complaint 5 Generated Matters, 74 Fed. Reg. 38617 (Aug. 4, 2009). 6 In its response, the Committee does not dispute the underlying violations; rather, the 7 Committee requests that the allegations be referred to ADR. Resp. at 1. According to the 8 Committee, the alleged discrepancies from the 2008 and 2012 election cycles "are comparatively 9 de minimis, do not warrant enforcement action, and are appropriately resolved in ADR." Id. Likewise, the Committee asserts that the misreported activity from the 2010 election cycle 10 11 represents a very small proportion of that cycle's receipts (1.6% of funds raised in 2010 12 campaign) and disbursements (1.9% of funds spent in 2010 campaign). Id. As a further basis for 13 ADR referral, the Committee notes that this small proportion of misstated activity coincided with 14 a dramatic increase in the Committee's receipts, "including a striking increase in the number of 15 low-dollar donors." Id. Finally, the Committee claims that referral to ADR is appropriate 16 because the Committee "proactively initiated an internal review to examine the dramatic increase

in receipts and disbursements during the 2010 election cycle and in an effort to ensure

compliance with the reporting requirements untler the Aet and Commission regulations." Id.

RR 12L-14 (Bachmann for Congress) First General Counsel's Report

B.	Legal	l An	aly	sis
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2	The rederal Election Campaign Act of 1971, as amended, (the "Act"), requires
3	committee treasurers to file reports of receipts and disbursements in accordance with the
4	provisions of 2 U.S.C. § 434. See 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1(a). These reports
5	must include, inter alia, the total amount of receipts and disbursements. See 2 U.S.C. § 434(b);
6	11 C.F.R. § 104.3. The Act also requires committees to disclose itemized breakdowns of
7	receipts and disbursements and the name and eddress of each person who has made any
8	contribution or received any disbursement in an aggregate amount or value in excess of \$200
9	within the calendar year, together with the date and amount of any such contribution or
10	disbursement. See 2 U.S.C. § 434(b)(2)-(6); 11 C.F.R. § 104.3(a)(3)-(4), (b)(2)-(4).
11	Here, the Committee did not comply with the Act's reporting requirements when it failed
12	to disclose \$220,251.46 in receipts and \$217,045.77.49 in disbursements on its 12 original
13	reports listed above. We therefore recommend the Commission find reason to believe that the
14	Committee violated 2 U.S.C. § 434(b).
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RR 12L-14 (Bachmann for Congress) First General Counsel's Report

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1	IV.	RECC	<u>DMMENDATIONS</u>		
2 3		1.	Open a MUR in RR 12L-14.		
4 5 6 7		2.	Find reason to believe that Bachmann capacity as treasurer violated 2 U.S.C.		
8 9		3.	Approve the attached Factual and Lega	al Ana	alysis.
10 11		4.	Enter into conciliation with Bachmann official capacity as treasurer prior to a		
12 13 14		5.			
15 16		6.	Approve the appropriate letters.		
17 18 19 20					Anthony Herman General Counsel
21 22 23					Daniel A. Petalas Associate General Counsel
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	Date	8-3-	<u>12</u>	BY:	Kathleen M. Guith Deputy Associate General Counsel for Enforcement William A. Powers Attorney